

REMARKS

Election/Restrictions

The requirement has been made FINAL. Withdrawn method of using claim 20 has been amended to be commensurate with and depend from elected product claim 1. Claim 20 has been further amended to state that the voided layer is removed from the label image after printing of the image on the pragmatic sheet, rather than “matrix material”, to provide proper antecedent basis. Support for such amendment is found generally throughout the specification, and in particular at page 13, line 19, and page 15, lines 11-15, wherein it is explained that the voided layer comprises “matrix” polymer material. Accordingly, rejoinder of method of using claims 20-24 upon allowance of elected product claim 1 is respectfully requested.

Double Patenting

Claims 1-19 and 25 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1 - 41 of copending Application No. 10/783,411. A terminal disclaimer with respect to such copending application (along with the separate terminal disclaimer with respect to USSN 10/780,263 as acknowledged by the Examiner) was previously submitted with Applicants' Response mailed June 14, 2006 (as evidenced by Applicant's return postcard designating (2) terminal disclaimers submitted therewith), but apparently was subsequently lost at the USPTO. To advance prosecution, submitted herewith is a new replacement terminal disclaimer with respect to USSN 10/783,411.

Claim Rejections - 35 USC § 103

Claims 1 - 12 and 14 - 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Aoki et al. (USPN 6,562,429) in view of Reiger et al. (USPN 6,653,061). The Examiner states Aoki et al. discloses a label stock (Column 1, lines 30-33) comprising in order at least one pragmatic sheet (Figures 1- 3, #1), a pressure sensitive adhesive (Column 3, lines 29 - 31; Figure 1, #2) having a thickness between 5 and 100 micrometers, thereby overlapping the claimed range of 12 and 25 micrometers, (Column 7, lines 11 - 14) and a

compliant carrier sheet (Figures 1- 3, #3), wherein the compliant carrier sheet comprises at least one voided layer (Column 2, lines 41 - 42 - wherein the cells of the foam layer are equivalent to the voids) adjacent said adhesive (Figure 1, #2 and 3; Column 6, lines 40 - 43) as in claims 1, 4, 6 and 12. While acknowledging Aoki et al. fail to disclose a polyester polymer sheet having at least one voided layer, a release layer between said adhesive and said voided layer and the pragmatic sheet comprising a gelatin layer adjacent to said adhesive, the Examiner further states that Reiger et al. teach a polyester polymer sheet (Column 10, lines 10 - 13) having at least one voided layer (Column 10, lines 66 to Column 11, line 11), a release layer between said adhesive (Column 18, lines 19 - 27) and said voided layer and the pragmatic sheet comprising a gelatin layer adjacent to said adhesive (Column 7, lines 9 - 17) in a label stock (Column 1, lines 6 - 9) for the purpose of forming a label that is low in cost and has excellent optical properties (Column 10, line 66 to Column 11, line 1), and that it would have been obvious to one of ordinary skill in the art at the time the applicant's invention was made to have provided the polyester polymer sheet and gelatin layer in Aoki et al. in order to form a label that is low in cost and has excellent optical properties as taught by Reiger et al. This rejection is respectfully traversed.

Contrary to the Examiner's assertions, Reiger et al. does not teach a release layer between an adhesive and a voided layer at Column 18, lines 19 – 27. Rather, the release layer is between a peelable liner (see, e.g., col. 19, lines 40+) substrate and the adhesive layer of the photographic label. The Examiner's reference to Column 10, lines 10 – 13 teaching a polyester polymer sheet having at least one voided layer is not understood, as col. 10, lines 10-13 refer to a preformed sheet used as an environmental protection layer over a label image (paragraph bridging cols. 9-10). While it is disclosed that such pre-formed sheet is preferably an oriented polymer, it is not suggested that it be a voided layer. To the contrary, voids would introduce opacity, which would obviously be avoided in a protective layer provided over an image, as otherwise the image would be blocked. Additionally, while the use of an adhesive is noted for adhering the pre-formed environmental protection layer to the label image, there is no teaching or suggestion to employ a release layer adjacent such environmental protection layer.

To the extent voided layers are suggested in Reiger et al., such as described at Column 10, lines 66 to Column 11, line 11 as referenced by the Examiner, they are disclosed as part of the face stock substrate, not part of the environmental protection layer or part of the peelable liner. The voided layers disclosed in Reiger et al. are employed so as to provide opacity, whiteness, and image sharpness to the image (see, e.g., col. 11, lines 25-30). Thus, such layer is clearly intended to be retained with the label image, not discarded as part of the liner. Thus, where a voided layer is employed as part of the face stock of the label, the label adhesive is between the voided layer and the peelable liner, and the release layer is between the adhesive and the peelable liner. Accordingly, the release layer employed in Reiger et al. is not between the adhesive and the voided layer as required by the present claimed invention, and the proposed combination of Reiger et al. with Aoki et al. would not overcome the basic acknowledged deficiencies of the Aoki et al reference with respect to the present claimed invention. A prima facie case of obviousness accordingly has clearly not been made, and reconsideration of this rejection is respectfully requested.

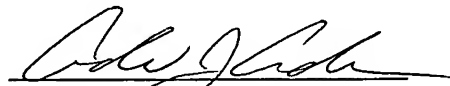
Claims 13, 18, 19 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Aoki et al. (USPN 6,562,429) in view of Reiger et al. (USPN 6,653,061) as applied to claims 1 - 12 and 14 - 17 above, and further in view of Tsugawa et al. (USPN 5,928,987). The Examiner states it would have been obvious to one of ordinary skill in the art at the time the applicant's invention to provide a thermal dye receiver layer as taught by Tsugawa et al. in Aoki et al. modified by Reiger et al. to form a superior recording material. This rejection is respectfully traversed, as Tsugawa et al. does not overcome the basic deficiencies of the Aoki et al. and Reiger et al references with respect to the present claimed invention in that the pragmatic layer of Aoki et al. may not be separated as there is no release layer and pressure sensitive adhesive combination below the pragmatic layer. Tsugawa et al. does not disclose or suggest any modification of Aoki that would lead to the formation of a label product as is instantly claimed. Therefore, it is respectfully requested that this rejection be reconsidered and withdrawn.

Response to Arguments

In response to Applicant's argument that Reiger et al. does not disclose the location of a release layer and a pressure sensitive adhesive above a cushioning layer and beneath the pragmatic sheet, the Examiner responds by stating Reiger et al. teach a polyester polymer sheet (Column 10, lines 10 - 13) having at least one voided layer (Column 10, lines 66 to Column 11, line 11), a release layer between said adhesive (Column 18, lines 19 - 27) and said voided layer and the pragmatic sheet comprising a gelatin layer adjacent to said adhesive (Column 7, lines 9 - 17) in a label stock (Column 1, lines 6 - 9). As explained above, however, to the extent Reiger et al. may suggest polyester polymeric sheets, voided layers, adhesives, and release layers, there simply is no teaching or suggestion to employ such layers in the specific order required by the present claimed invention so as to teach providing a release layer between the label adhesive and a voided layer. As taught by Applicants, such arrangement enables that the voided layer is peelable from the adhesive of the label face stock. To the contrary, Reiger teaches retaining the voided layer with the label image to impart opacity, whiteness, and image sharpness to the image. There is simply no teaching or suggestion in Reiger et al. to employ a voided layer in the releasable peelable liner to provide a compliant carrier sheet as taught in the present invention.

In view of the foregoing amendments and remarks, reconsideration of this patent application is respectfully requested. A prompt and favorable action by the Examiner is earnestly solicited. Should the Examiner believe any remaining issues may be resolved via a telephone interview, the Examiner is encouraged to contact Applicants' representative at the number below to discuss such issues.

Respectfully submitted,



Attorney for Applicant(s)
Registration No. 33,564

Andrew J. Anderson/vjr
Rochester, NY 14650
Telephone: (585) 722-9662
Facsimile: (585) 477-1148

If the Examiner is unable to reach the Applicant(s) Attorney at the telephone number provided, the Examiner is requested to communicate with Eastman Kodak Company Patent Operations at (585) 477-4656.